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**Remarks**

This paper is filed in response to the Office Action (Paper No. 7) mailed January 23, 2001. Claims 1-9, 11, 12, 15-29, and 32-44 are pending in the present application. In the Office Action mailed January 23, 2001, the Examiner rejects claims 1-9, 11, 12, 15-29, and 32-44. Based on the remarks made herein, Applicants respectfully request that the rejections be withdrawn and that the application be passed to allowance. No new matter is added by the amendments made herein. **A Version Of Amended Title and Paragraph In The Specification With Markings To Show Changes Made** is submitted herewith as Appendix A.

In the Office Action mailed January 23, 2001, the Examiner objects to the disclosure because the Examiner believes that the Specification is missing a description of reference number 88 in Figure 5. Applicants respectfully direct the Examiner's attention to page 21, lines 23-26 of the Specification, wherein reference number 88 is described as referring to a width in the longitudinal direction 38 of the secondary fasteners 84 and 86. Additionally, the Examiner notes that a substitute specification including the claims is required pursuant to 37 C.F.R. §1.125(a) because the top margin of the specification as filed was too small. Accordingly, a substitute specification having the correct margins and containing only the subject matter from the original specification is submitted herewith. Applicants respectfully request that the Examiner's objection to the disclosure be withdrawn.

In the Office Action mailed January 23, 2001, the Examiner rejects claims 1-2, 7-9, 12, 15-20, 25-27, 29, 32-37, 39, and 43-44 under 35 U.S.C. § 102 (e) as allegedly being anticipated and therefore unpatentable over U.S. Patent No. 6,022,430 issued February 8, 2000 to Blenke et al. (hereinafter "Blenke"). This rejection is respectfully **traversed**.

With respect to claims 1, 20 and 37, the Examiner believes that Blenke discloses a diaper with an absorbent chassis, a front waist region, a rear waist region, end edges, and side edges. The Examiner also believes that Blenke discloses a fit panel, with releasably engageable primary fasteners located on outboard edges, and a waist adjustment means that provides a pair of secondary fasteners, and a pair of perforations lines that provide the secondary fasteners.

With respect to claims 1, 7, 16, 20, 25, 33 and 37, the Examiner believes that Blenke discloses the use of fasteners that releasably engage, such as hook and loop type fasteners. With respect to claims 8 and 26, the Examiner believes that Blenke discloses the use of an attachment panel. With respect to claim 9, the Examiner believes that Blenke discloses the fit panel being linear. With respect to claims 12, 17, 29, 34 and 43, the Examiner believes that Blenke discloses the fit panel being attached to the bodyfacing surface of the outercover. With respect to claims 15,

18-19, 32, 35-36 and 44, the Examiner believes that Blenke discloses that the side panels will provide the primary and secondary fasteners, with the primary fasteners releasably engaging the front waist, and the secondary fasteners greater than 5 percent of the total width of the fit panel. Finally, with respect to claim 27, the Examiner believes that Blenke discloses the diaper as having an outercover with backsheet and a bodyside liner. Applicants appreciate the Examiner's use of specific column and line numbers and specific reference numerals to identify those structures in Blenke that the Examiner believes are similar to elements of the invention as claimed.

In order to be anticipatory, a reference must explicitly or implicitly disclose each and every element of the claimed invention. Independent claim 1 of the present invention is directed to a disposable absorbent article including an absorbent chassis that defines a front waist region, a rear waist region, a crotch region that extends between and connects the waist regions, a pair of longitudinally opposed end edges and a pair of laterally opposed side edges. The absorbent article also includes at least one fit panel that is located in one of the waist regions of the absorbent chassis and that defines a waist edge. The article further includes a pair of laterally opposed outboard edges that are located laterally beyond the side edges of the absorbent chassis and an inward edge that is located longitudinally inward from the waist edge. The absorbent article further includes a pair of primary fasteners that are located on the laterally opposed outboard edges of the fit panel and that are configured to releasably engage an opposite waist region of the absorbent chassis so as to releasably engage the front waist region to the rear waist region and to secure the absorbent article about a wearer's body. The absorbent article also includes a pair of laterally directed perforation lines on at least one of two laterally opposed sides of the fit panel to provide at least one secondary fastener tab. The secondary fastener tab is configured to releasably engage the opposite waist region to further conform the waist regions to the wearer's body after the primary fasteners have been releasably engaged. Independent claim 20 further includes a pair of laterally directed perforation lines *on each of* two laterally opposed sides of the fit panel to provide *a pair of* laterally opposed secondary fastener tabs. The secondary fastener tabs are configured to releasably engage the opposite waist region to further conform the waist regions to the wearer's body after the primary fasteners have been releasably engaged. In place of the pair of laterally directed perforation lines, independent claim 37 includes a waist size adjustment means integral with the fit panel for further conforming the waist regions to the wearer's body after the primary fasteners have been releasably engaged.

Blenke relates to absorbent articles having an adjustable belt and methods of making the same. (See Col. 1, lines 6-9). Looking at Figs. 2-5 of Blenke, the article of Blenke includes an outer cover (depicted by reference numeral "42"), an absorbent chassis (depicted by reference

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numeral "44"), and a fastening system (depicted by reference numeral "60"). (See Col. 5, lines 44-45). The fastening system ("60") includes a pair of primary fasteners (depicted by reference numeral "62"), an adjustable belt (depicted by reference numeral "64"), a pair of secondary fasteners (depicted by reference numeral "66") attached to laterally opposed end portions of the adjustable belt ("64"), and a pair of belt loops (depicted by reference numeral "70"). (See Col. 5, lines 50-53). In the illustrated embodiment, the adjustable belt ("64") is slidably contained between the belt loops ("70") and the outer cover ("42") of the article. (See Col. 5, lines 53-56). The belt loops ("70") are cut from ribbons of belt loop material (depicted by reference numeral "104"). (See Fig. 1 and Col. 7, lines 38-41). The belt loop material ("104") can include fastener material on a bodyfacing surface thereof. (See Col. 7, lines 47-48). The secondary fasteners ("66") are provided via ribbons of secondary fastener material (depicted by reference numeral "84"). (See Col. 6, lines 50-55). Alternatively, the secondary fastener material ("84") and the belt loop material ("104") may be provided by the same web of material. (See Col. 7, lines 64-67). In such a configuration, the secondary fastener material and the belt loop material "may remain selectively attached to each other along a line of perforations[,] which "can then be broken in use to facilitate the adjustment of the secondary fasteners for improved fit of the diaper about the waist of the wearer." (See Col. 8, lines 4-15). The fasteners ("62" and "66") can be hook type fasteners which are releasably engageable with the outer cover ("42"); "[s]uch an arrangement provides the ability to vary the size of the waist opening in very small increments over a wide range to fit the waist of the wearer." (See Col. 14, lines 52-57).

Blenke does not disclose (either explicitly or implicitly) several elements of the invention as claimed. For example, Blenke does not disclose an article including at least one fit panel which is located in one of the waist regions. Although the Examiner states that Blenke "discloses a fit panel (70)[,]" reference numeral "70" as used in Blenke refers to belt loops (See, for example, Col. 5, lines 50-56), and nowhere refers to a "fit panel." The fastening system of Blenke includes a pair of primary fasteners ("62"), an adjustable belt ("64"), a pair of secondary fasteners ("66") attached to the laterally opposed end portions of the adjustable belt ("64") and a pair of belt loops ("70"). The adjustable belt ("64") is slidably contained between the belt loops ("70"). (See Col. 5, lines 50-56). The fit panel of the present invention is different and distinguishable. Looking at Figs. 1 and 4-6 of the present application, one can see that the fit panel (depicted by reference numeral "70") is a physically different structure than the belt loops of Blenke. Further, the fit panel of the present invention has a pair of primary fasteners located on the laterally opposed outboard edges of the fit panel. The belt loops of Blenke do not include a pair of primary fasteners. Therefore, the belt

loops ("70") of Blenke do not (implicitly or explicitly) anticipate the fit panel of the present invention as claimed.

Blenke also does not disclose a pair of laterally directed perforation lines on at least one of two laterally opposed sides of the fit panel to provide at least one secondary fastener tab. The "line of perforations" of Blenke (see Col. 8, lines 8-12) does not correspond to the "pair of laterally directed perforation lines" as claimed by the present invention. The line of perforations of Blenke divides a ribbon of secondary fastener material and a ribbon of belt loop material, whereby the two ribbons remain selectively attached to each other. (See Col. 8, lines 1-15). The line of perforations of Blenke does not "provide at least one secondary fastener tab" from "at least one of two laterally opposed sides of a fit panel" as presently claimed. In other words, Blenke describes a ribbon of secondary fastener material and a ribbon of belt loop material remaining selectively attached to each other (and not completely severed from each other) during processing. merely perforates a fastener, and does not perforate a fit panel to provide a secondary fastener tab. Finally, Blenke also does not disclose a waist size adjustment means integral with a fit panel. The "arrangement provid[ing] the ability to vary the size of the waist opening" of Blenke (see Col. 14, lines 54-57) does not correspond to the "waist size adjustment means integral with the fit panel" as presently claimed. The arrangement described in Blenke includes hook type fasteners that are releasably engageable directly with the outer cover; no adjustment means integral with a fit panel is mentioned. Therefore, Blenke does not disclose each and every element of the invention as claimed. For at least these reasons, Applicants respectfully submit that independent claims 1, 20, and 37 are patentable over Blenke.

Claims 2, 7-9, 12, and 15-19, 25-27, 29, 32-36, 39, and 43-44 are patentable over Blenke at least for depending from independent claims 1, 20, and 37. Additionally, claim 9 is directed to the inward edge of the fit panel being linear. As previously mentioned, Blenke does not disclose a fit panel and, therefore, Blenke does not disclose such a fit panel being linear. Claims 12, 29, and 43 are directed to the fit panel being attached to a bodyfacing surface of the absorbent article. Blenke does not disclose a fit panel and, therefore, Blenke does not disclose such a fit panel being attached to a bodyfacing surface of an absorbent article. Claims 17 and 34 are directed to the inward edge of the fit panel being substantially fully attached to the absorbent chassis. Blenke does not disclose a fit panel and, therefore, Blenke does not disclose such a fit panel being substantially fully attached to an absorbent chassis. Claims 15 and 32 are directed to the secondary fastener tab defining a length in a lateral direction which is at least about 5 percent of a total lateral width of the fit panel. Blenke does not disclose a fit panel and, therefore, Blenke does not disclose a secondary fastener tab which defines a length in a lateral direction which is at least

about 5 percent of a total lateral width of such a fit panel. Claims 18 and 35 are directed to the fit panel being located in the rear waist region of the absorbent chassis, and wherein the primary fasteners located on the fit panel are configured to releasably engage the front waist region of the absorbent chassis. Blenke does not disclose a fit panel and, therefore, does not disclose such a fit panel being located in a rear waist region of an absorbent chassis wherein primary fasteners located on such a fit panel are configured to releasably engage a front waist region of the absorbent chassis. Finally, claims 19, 36 and 44 are directed to the fit panel comprising two laterally spaced apart side panels connected to the side edges of the absorbent chassis. Blenke does not disclose a fit panel and, therefore, does not disclose such a fit panel comprising two laterally spaced apart side panels connected to side edges of an absorbent chassis. For at least these reasons, Applicants respectfully submit that claims 2, 7-9, 12, and 15-19, 25-27, 29, 32-36, 39, and 43-44 are patentable over Blenke. Applicants request that the rejection under §102(e) be withdrawn.

In the Office Action mailed January 23, 2001, the Examiner rejects claims 11, 28, and 42 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,022,430 issued February 8, 2000 to Blenke et al. in view of U.S. Patent No. 6,149,638 issued November 21, 2000 to Vogt et al. (hereinafter "Vogt"). This rejection is respectfully **traversed**.

The Examiner acknowledges that Blenke does not disclose a diaper outercover being made of a necked nonwoven material. However, the Examiner believes that Vogt discloses an absorbent article having an extensible outercover being made of necked nonwoven spunbonded material. The Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made "to have the outercover of the diaper of Blenke, being made of a necked nonwoven material, as disclosed by Vogt, in order to make the outercover extensible so the absorbent pad does not tear, and absorbent material does not spill out of the article ...."

In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143. Claims 11, 28, and 42 of the present invention are directed to an absorbent article having an absorbent chassis that defines a front waist region, a rear waist region and a crotch region. The articles include at least one fit panel that is located in at least one of the waist regions. The absorbent chassis includes an outercover that includes a necked nonwoven material.

Vogt relates to absorbent articles having an absorbent core, an extensible outercover and a folded layer of material having at least one fold. The folded layer has surfaces adjacent the absorbent core and the extensible outer cover. A pattern of adhesive is disposed at least in part between the folded layer and the outer cover and mounts the folded layer to the outer cover. The folded layer is mounted to the outer cover in such a way that when the outer cover extends, the folded layer can extend with the outer cover by opening of the fold. The folded layer does not tear or otherwise release superabsorbent materials from the absorbent core. (See Col. 1, line 59 to Col. 2, line 4.). A preferred material for the outer cover layer can include an extensible film material laminated to a necked nonwoven spunbound material. (See Col. 8, lines 2-5.). Like Blenke, Vogt does not disclose or suggest a fit panel as claimed by the present invention.

Combining the references of Blenke and Vogt would not result in the articles of the present invention as claimed. Further, the Examiner has not identified any motivation to modify the disclosure of Blenke to include a fit panel such as the fit panel claimed by the present invention. Even incorporating the necked nonwoven spunbonded materials of Vogt into the articles of Blenke would not provide the articles claimed by the present invention. That is, incorporating the necked nonwoven spunbonded materials of Vogt into the articles of Blenke would not provide an absorbent article having at least one fit panel with a pair of primary fasteners located on laterally opposed outboard edges of the fit panel. Therefore, for at least these reasons, Applicants submit that claims 11, 28 and 42 are patentable over Blenke in view of Vogt.

In the Office Action mailed January 23, 2001, the Examiner rejects claims 3-6, 21, 23-24, and 38-41 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,022,430 issued February 8, 2000 to Blenke et al. in view of U.S. Patent No. 5,916,203 issued June 29, 1999 to Brandon et al. (hereinafter "Brandon"). This rejection is respectfully **traversed**.

The Examiner acknowledges that Blenke fails to teach the use of a fit panel elongating at least 50% and comprising latent elastic material, an elastic member, and an elastomeric material. However, the Examiner believes that Brandon discloses a composite material with elasticized portions that can be used in the elastic parts of absorbent articles and that includes a latent material (14) and an elastic material (12) including an elastomeric material and having an elongation from 50% to 150%. The Examiner believes it would have been obvious to one of ordinary skill in the art at the time the invention was made "to have the fit panel of Blenke comprise the material and elongate as disclosed by Brandon, in order for the elasticized portions to conform the garment to the wearer's body and prevent leakage." Applicants interpret this statement to mean that the Examiner believes it would have been obvious to one of ordinary skill in the art at

the time the invention was made to add the composite material of Brandon to the "fit panel" perceived by the Examiner to be disclosed in Blenke.

Claims 3, 21, and 39 are directed to an absorbent article having at least one fit panel that includes a latent elastic material. Claims 4 and 40 are directed to an absorbent article having at least one fit panel including at least one elastic member that is applied to the fit panel in a pretensioned configuration. Claims 5, 23 and 41 are directed to an absorbent article having at least one fit panel in which the fit panel is designed to elongate in a lateral direction at least about 30 percent to assist in positioning the absorbent article about a wearer's waist. Claims 6 and 24 are directed to an absorbent article having at least one fit panel in which the fit panel is designed to elongate in a lateral direction at least about 50 percent to assist in positioning the absorbent article about a wearer's waist. Claim 38 is directed to an absorbent article having at least one fit panel in which the fit panel is elastomeric.

Brandon discloses an absorbent article having at least one temperature sensitive elastic material (depicted by reference numeral "12"), an absorbent layer located in superposed relation to the temperature sensitive elastic material, and a microwave sensitive material (depicted by reference numeral "14") located on selected regions of the temperature sensitive elastic material ("12"). (See Col. 2, lines 17-22). The selected regions of the temperature sensitive elastic material ("12") are activated by applying microwave energy to the article thereby heating the microwave sensitive material ("14") to create elasticized portions. (See Col. 2, lines 17-26). Brandon does not disclose or suggest a fit panel as claimed by the present invention.

Combining the references of Blenke and Brandon would not result in the articles of the present invention as claimed. Further, the Examiner has not identified any motivation to modify the disclosure of Blenke to include a fit panel such as the fit panel claimed by the present invention. Even incorporating the temperature sensitive elastic material ("12") and the microwave sensitive material ("14") of Brandon into the articles of Blenke would not provide the articles claimed by the present invention. That is, incorporating the temperature sensitive elastic material ("12") and the microwave sensitive material ("14") of Brandon into the articles of Blenke would not provide an absorbent article having at least one fit panel. Therefore, Applicants submit that claims 3-6, 21, 23-24, and 38-41 are patentable over Blenke in view of Brandon.

In view of the above remarks, reexamination, reconsideration and withdrawal of the rejections of claims 1-9, 11, 12, 15-29, and 32-44 under 35 U.S.C. §§ 102 and 103 are respectfully requested. Moreover, it is respectfully submitted that all of the presently presented claims are in condition for allowance and such action is earnestly solicited. If the Examiner has any questions or

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if there are any remaining issues that can be handled by telephone, the Examiner is invited to contact the undersigned at (920) 721-2433.

The Commissioner is hereby authorized to charge any prosecutorial fees (or credit any overpayment) associated with this communication to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account. A duplicate of this sheet is provided.

Respectfully submitted,

LAURA L. ELSBERG, ET AL.

By: Alyssa Dudkowski  
Alyssa Dudkowski  
Registration No.: 40,596  
Attorney for Applicants

CERTIFICATE OF MAILING

I, Barbara D. Miller, hereby certify that on April 23, 2001 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Box NON-FEE AMENDMENT, Assistant Commissioner for Patents, Washington, D.C. 20231.

By: Barbara D. Miller  
Barbara D. Miller



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APPENDIX A**Version Of Amended Title and Paragraph In The Specification With Markings To Show Changes Made**

DISPOSABLE ABSORBENT ARTICLE HAVING A ~~STRETCH~~ FIT PANEL AND AN INTEGRATED WAIST SIZE ADJUSTMENT MECHANISM

Desirably, the secondary fastener 84 is releasably engageable directly with the garment facing surface 36 of the outer cover 42 of the absorbent chassis 28 to provide improved ease of fastening. Alternatively, as described above and representatively illustrated in Figs. 1-3, the diaper 20 of the present invention may further include an attachment panel 66 located on the outer cover 42 in one of the waist regions 22 and 24 of the diaper 20. In such a configuration, the secondary fastener 84 may also be releasably engageable with the attachment panel ~~60~~ 66 to further conform the diaper 20 to the waist of the wearer.



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If there are any remaining issues that can be handled by telephone, the Examiner is invited to contact the undersigned at (920) 721-2433.

The Commissioner is hereby authorized to charge any prosecutorial fees (or credit any overpayment) associated with this communication to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account. A duplicate of this sheet is provided.

Respectfully submitted,

LAURA L. ELSBERG, ET AL.

By: Alyssa Dudkowski  
Alyssa Dudkowski  
Registration No.: 40,596  
Attorney for Applicants

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By: Barbara D. Miller  
Barbara D. Miller